

REMARKS

Claims 1-21 are pending. It is understood that claims 15-19 have been withdrawn from consideration at this time. Applicants thank the Examiner for the Personal Interview of April 8, 2003. The above amendments are presented in the format described by the proposed revision to 37 CFR § 1.121, and as such, no clean copy of the amended claims is provided.

I. 35 USC § 112

Claims 2, 5 and 11 stand rejected under 35 USC § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim that which is considered the invention. In response, each of these claims has been amended in accordance with the Examiner's suggestions.

II. 35 USC § 102

1. Miller

Claims 13 and 14 stand rejected under 35 USC § 102(b) as allegedly being anticipated by Miller (U.S. Patent No. 3,884,008). The Office Action asserts that this reference teaches each feature of the rejected claims.

However, Applicants respectfully disagree. Specifically, the rejected claims recite "first and second independently resilient cheeks" (emphasis added). In contrast, the concrete insert 1 of Miller, including side portions 28, are formed from metal, designed to "provide an exceptionally strong interlocking connection which allows the insert to resist substantially all commonly encountered forces" and acts "to lock the engages members against rotational or transverse movement" (column 2, lines 1-10). Thus, it is respectfully presented that the side portions 28 of Miller are not resilient cheeks as presently claimed. Reconsideration is requested.

2. Brechin

Claims 13 and 14 stand further rejected under 35 USC § 102(b) as allegedly being anticipated by Brechin U.S. (Patent No. 3,145,503). The Office Action asserts that each feature of the rejected claims is taught by this reference.

However, in light of the amendment to claim 13, reconsideration is requested. Specifically, present claim 13 recites that the lips, which extend perpendicular with respect to the center section, are upstanding, at the end of the center section. In contrast, the elements alleged to be lips in this reference, i.e., anchor legs 52 and 53 terminate in longitudinally extending ribs 62 and 63. Thus, Brechin is lacking each feature of the present claims.

III. 35 USC § 103

Claims 1-3 and 5-7 stand rejected under 35 USC § 103(a) as allegedly being unpatentable over SE 802375-5 in view of Pressell (U.S. Patent No. 4,461,131). The Office Action asserts that SE '375 teaches each feature of the rejected claims, except for the cheek being a first and a second independently resilient cheek, for which purpose Pressell is cited. As a result, the Office Action continues, it would have been obvious to modify the structure taught by SE '375 "to show the cheek being a first and a second independently resilient cheek because the examiner takes Official Notice of the equivalence of two cheek [*sic*] on a joining profile and one cheek on the joining profile" (Office Action, page 6, lines 10-15).

However, Applicants respectfully present that adding the lugs 68 of Pressell to the profile of SE '375 would not achieve the present invention. In fact, if one were to incorporate the lugs 68 of Pressell, the motivation would be to modify end flanges 11 of SE '375 to form bulbous lugs therein, not to modify the center section 10 of SE '375. This would necessarily be the result, because when comparing similar structures to make modifications, end flanges 11 of SE '375 are most similar to lugs 68, as the connector 66 of Pressell is lacking any middle flange.

As a result, combining the teachings of Pressel to SE '375 would not achieve the present invention. In fact, only by impermissible hindsight would one of ordinary skill think to divide the middle flange 10 of SE '375 to form first and second independently resilient cheeks.

Moreover, the differences in the structures of the profile of SE '375 and the presently claimed invention, cause different operations. Specifically, during installation, lower flanges 6 of SE '375 are flexed downward to allow insertion of the panel 1. In contrast, during installation of the profile of the present claims, it is the resilient cheeks of the center section which is deformed to allow installation. See Fig. 1b.

Additionally, the profile of the present invention allows vertical installation, which is prohibited by the profile of SE '375. Specifically, if panel 1 of SE '375 were moved vertically (as shown in Fig. 1b of the present specification), the upper flanges 5 would prevent correct assembly. However, providing two independently resilient cheeks, in accordance with the present invention, the resilient cheeks can be independently pushed inwards to allow correct placement of the floor boards 1.

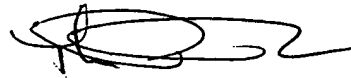
In any event, Applicants repeat that SE '375 does not teach that the middle flange 10 is resilient. As previously stated, in order for the profile of this reference to operate, lower flanges 6 must be resilient. However, simply because the lower flanges 6 are resilient and the middle flange 10 is made of the same material does not necessarily mean that the middle flange 10 is also resilient. For example, middle flange 10 may be, for example, of a different density or have another characteristic which renders it rigid.

Thus, in light of the discussion presented above, Applicants respectfully request reconsideration.

V. Conclusion

For at least the foregoing reasons, withdrawal of all objections and rejections and passage of the application to issue are respectfully requested.

Respectfully submitted,



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Date: April 10, 2003

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